

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMIREZ-POLANCO, MARTHA,

Plaintiff,

v.

Case No. 8:20-cv-350-WFJ-AEP

MCCURDY, WILLIAM CRAIG and
NATIONAL CARRIERS, INC.,

Defendants.

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ORDER

This cause comes before the Court upon Defendant National Carrier, Inc.'s Motion for Physical Examination Under Rule 35 (Doc. 37). Defendant seeks to obtain the physical examination of Plaintiff relating to alleged injuries Plaintiff suffered as a result of a motor vehicle accident. Pursuant to Rule 35, Federal Rules of Civil Procedure, where an action is pending, the court may order a party whose mental or physical condition is in controversy to submit to examination by a suitably licensed or certified examiner. Fed. R. Civ. P. 35(a)(1). In this instance, the physical examination of Plaintiff relates to alleged personal injuries Plaintiff suffered and placed into issue.

Defendant states that the physical examination has been scheduled to be performed by Dr. Jack Maniscalco on December 1, 2020, at 9:00 a.m. at Neurosurgery Consultant of Florida, P.A., 2816 W. Virginia Avenue, Tampa, Florida 33607. Plaintiff did not object to the date, time, and place of the examination. However, Plaintiff did object to Defendant's contention that the medical examination should proceed without recordation or the presence of Plaintiff's counsel or a third party (*See* Doc. 37, ¶5). For the reasons set forth at the November 23, 2020

hearing on this matter and in reliance on the court's rationale in *Tomlinson v. Landers*, No. 3:07-CV-1180-J-TEM, 2009 WL 2496531 (M.D. Fla. Aug. 12, 2009), the undersigned finds that Plaintiff has not demonstrated "good cause" for its request that Plaintiff's counsel, a videographer and/or a court reporter be permitted at the medical examination.

Accordingly, and pursuant to Rule 35 of the Federal Rules of Civil Procedure, it is hereby ORDERED:

1. Defendant's Motion for Physical Examination Under Rule 35 (Doc. 37) is hereby GRANTED.

2. Plaintiff's request that her counsel, a videographer and/or a court reporter be permitted at the physical examination is hereby DENIED.

DONE AND ORDERED in Tampa, Florida, on this 23 day of November, 2020.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record